

Senate Study Bill 1123

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
WORKFORCE DEVELOPMENT BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to workers' compensation settlements, filings,
2 filing fees, and an appropriation of such filing fees.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1209DP 81
5 av/sh/8

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1 1 Section 1. Section 22.7, Code 2005, is amended by adding
1 2 the following new subsection:
1 3 NEW SUBSECTION. 51. Confidential information, as defined
1 4 in section 86.45, subsection 1, filed with the workers'
1 5 compensation commissioner.
1 6 Sec. 2. Section 85.35, Code 2005, is amended to read as
1 7 follows:
1 8 ~~85.35 SETTLEMENT IN CONTESTED CASE SETTLEMENTS.~~
1 9 1. The parties to a contested case or persons who are
1 10 involved in a dispute which could culminate in a contested
1 11 case may enter into a settlement of any claim arising under
1 12 this chapter or chapter 85A, 85B, or 86, providing for final
1 13 disposition of the claim, provided that no final disposition
~~1 14 affecting rights to future benefits may be had when the only~~
~~1 15 dispute is the degree of disability resulting from an injury~~
~~1 16 for which an award for payments or agreement for settlement~~
~~1 17 under section 86.13 has been made. The settlement shall be in~~
1 18 writing on forms prescribed by the workers' compensation
1 19 commissioner and submitted to the workers' compensation
1 20 commissioner for approval.
1 21 2. The parties may enter into an agreement for settlement
1 22 that establishes the employer's liability, fixes the nature
1 23 and extent of the employee's current right to accrued
1 24 benefits, and establishes the employee's right to statutory
1 25 benefits that accrue in the future.
1 26 3. The parties may enter into a compromise settlement of
1 27 the employee's claim to benefits as a full and final
1 28 disposition of the claim.
1 29 4. The parties may enter into a settlement that is a
1 30 combination of an agreement for settlement and a compromise
1 31 settlement that establishes the employer's liability for part
1 32 of a claim but makes a full and final disposition of other
1 33 parts of a claim.
1 34 5. A contingent settlement may be made and approved,
1 35 conditioned upon subsequent approval by a court or
2 1 governmental agency, or upon any other subsequent event that
2 2 is expected to occur within one year from the date of the
2 3 settlement. If the subsequent approval or event does not
2 4 occur, the contingent settlement and its approval may be
2 5 vacated by order of the workers' compensation commissioner
2 6 upon a petition for vacation filed by one of the parties or
2 7 upon agreement by all parties. If a contingent settlement is
2 8 vacated, the running of any period of limitation provided for
2 9 in section 85.26 is tolled from the date the settlement was
2 10 initially approved until the date that the settlement is
2 11 vacated, and the claim is restored to the status that the
2 12 claim held when the contingent settlement was initially
2 13 approved. The contingency on a settlement lapses and the
2 14 settlement becomes final and fully enforceable if an action to
2 15 vacate the contingent settlement or to extend the period of
2 16 time allowed for the subsequent approval or event to occur is
2 17 not initiated within one year from the date that the

~~2 18 contingent settlement was initially approved.~~
~~2 19 6. The parties may agree that settlement proceeds, which~~
~~2 20 are paid in a lump sum, are intended to compensate the injured~~
~~2 21 worker at a given monthly or weekly rate over the life~~
~~2 22 expectancy of the injured worker. If such an agreement is~~
~~2 23 reached, neither the weekly compensation rate which either has~~
~~2 24 been paid, or should have been paid, throughout the case, nor~~
~~2 25 the maximum statutory weekly rate applicable to the injury~~
~~2 26 shall apply. Instead, the rate set forth in the settlement~~
~~2 27 agreement shall be the rate for the case.~~
~~2 28 The settlement shall not be approved unless evidence of a~~
~~2 29 bona fide dispute exists concerning any of the following:~~
~~2 30 1. The claimed injury arose out of or in the course of the~~
~~2 31 employment.~~
~~2 32 2. The injured employee gave notice under section 85.23.~~
~~2 33 3. Whether or not the statutes of limitations as provided~~
~~2 34 in section 85.26 have run. When the issue involved is whether~~
~~2 35 or not the statute of limitations of section 85.26, subsection~~
~~3 1 2, has run, the final disposition shall pertain to the right~~
~~3 2 to weekly compensation unless otherwise provided for in~~
~~3 3 subsection 7 of this section.~~
~~3 4 4. The injury was caused by the employee's willful intent~~
~~3 5 to injure the employee's self or to willfully injure another.~~
~~3 6 5. Intoxication, which did not arise out of and in the~~
~~3 7 course of employment but which was due to the effects of~~
~~3 8 alcohol or another narcotic, depressant, stimulant,~~
~~3 9 hallucinogenic, or hypnotic drug not prescribed by an~~
~~3 10 authorized medical practitioner, was a substantial factor in~~
~~3 11 causing the employee's injury.~~
~~3 12 6. The injury was caused by the willful act of a third~~
~~3 13 party directed against the employee for reasons personal to~~
~~3 14 such employee.~~
~~3 15 7. This chapter or chapter 85A, 85B, 86 or 87 applies to~~
~~3 16 the party making the claim.~~
~~3 17 8. A substantial portion of the claimed disability is~~
~~3 18 related to physical or mental conditions other than those~~
~~3 19 caused by the injury.~~
~~3 20 7. A settlement shall be approved by the workers'~~
~~3 21 compensation commissioner if the parties show all of the~~
~~3 22 following:~~
~~3 23 a. Substantial evidence exists to support the terms of the~~
~~3 24 settlement.~~
~~3 25 b. Waiver of the employee's right to a hearing, decision,~~
~~3 26 and statutory benefits is made knowingly by the employee.~~
~~3 27 c. The settlement is a reasonable and informed compromise~~
~~3 28 of the competing interests of the parties.~~
~~3 29 If an employee is represented by legal counsel, it is~~
~~3 30 presumed that the required showing for approval of the~~
~~3 31 settlement has been made.~~
~~3 32 8. Approval of a settlement by the workers' compensation~~
~~3 33 commissioner shall be is binding on the parties and shall not~~
~~3 34 be construed as an original proceeding. Notwithstanding any~~
~~3 35 provisions of this chapter and chapters 85A, 85B, 86 and 87,~~
~~4 1 an approved compromise settlement shall constitute a final bar~~
~~4 2 to any further rights arising under this chapter and chapters~~
~~4 3 85A, 85B, 86, and 87. Such regarding the subject matter of~~
~~4 4 the compromise and a payment made pursuant to a compromise~~
~~4 5 settlement agreement shall not be construed as the payment of~~
~~4 6 weekly compensation.~~
~~4 7 Sec. 3. NEW SECTION. 86.15 FILING FEE.~~
~~4 8 The workers' compensation commissioner shall collect a fee~~
~~4 9 of one hundred dollars for filing a petition for arbitration~~
~~4 10 or review=reopening if the petition seeks the payment of~~
~~4 11 weekly workers' compensation benefits. The commissioner~~
~~4 12 shall, by rule, establish procedures to defer collection of~~
~~4 13 the fee if the petitioner is indigent or to avoid the~~
~~4 14 collection of multiple filing fees where a single claim is~~
~~4 15 being pursued through multiple petitions. Funds generated~~
~~4 16 from filing fees collected pursuant to this section are~~
~~4 17 appropriated to the department of workforce development and~~
~~4 18 shall be expended for the operation of the division of~~
~~4 19 workers' compensation.~~
~~4 20 Sec. 4. Section 86.24, subsection 4, Code 2005, is amended~~
~~4 21 to read as follows:~~
~~4 22 4. A transcript of a contested case proceeding shall be~~
~~4 23 provided by an appealing party at the party's cost and an~~
~~4 24 affidavit shall be filed by the appealing party or the party's~~
~~4 25 attorney with the workers' compensation commissioner within~~
~~4 26 ten days after the filing of the appeal to the workers'~~
~~4 27 compensation commissioner stating that the transcript has been~~
~~4 28 ordered and identifying the name and address of the reporter~~

~~4 29 or reporting firm from which the transcript has been ordered.~~

4 30 Sec. 5. NEW SECTION. 86.45 CONFIDENTIAL INFORMATION.

4 31 1. "Confidential information", for the purposes of this
4 32 section, means all information that is filed with the workers'
4 33 compensation commissioner as a result of an employee's injury
4 34 or death that would allow the identification of the employee
4 35 or the employee's dependents. Confidential information
5 1 includes first reports of injury and subsequent reports of
5 2 claim activity. Confidential information does not include
5 3 pleadings, motions, decisions, opinions, or applications for
5 4 settlement that are filed with the workers' compensation
5 5 commissioner.

5 6 2. The workers' compensation commissioner shall not
5 7 disclose confidential information except as follows:

5 8 a. Pursuant to the terms of a written waiver of
5 9 confidentiality executed by the employee or the dependents of
5 10 the employee whose information is filed with the workers'
5 11 compensation commissioner.

5 12 b. To another governmental agency, or to an advisory,
5 13 rating, or research organization, for the purpose of compiling
5 14 statistical data, evaluating the state's workers' compensation
5 15 system, or conducting scientific, medical, or public policy
5 16 research, where such disclosure will not allow the
5 17 identification of the employee or the employee's dependents.

5 18 c. To the employee or to the agent or attorney of the
5 19 employee whose information is filed with the workers'
5 20 compensation commissioner.

5 21 d. To the person or to the agent of the person who
5 22 submitted the information to the workers' compensation
5 23 commissioner.

5 24 e. To an agent, representative, attorney, investigator,
5 25 consultant, or adjuster of an employer, or insurance carrier
5 26 or third-party administrator of workers' compensation
5 27 benefits, who is involved in administering a claim for such
5 28 benefits related to the injury or death of the employee whose
5 29 information is filed with the workers' compensation
5 30 commissioner.

5 31 f. To all parties to a contested case proceeding before
5 32 the workers' compensation commissioner in which the employee
5 33 or a dependent of the employee, whose information is filed
5 34 with the workers' compensation commissioner, is a party.

5 35 g. In compliance with a subpoena.

6 1 h. To an agent, representative, attorney, investigator,
6 2 consultant, or adjuster of the employee, employer, or
6 3 insurance carrier or third-party administrator of insurance
6 4 benefits, who is involved in administering a claim for
6 5 insurance benefits related to the injury or death of the
6 6 employee whose information is filed with the workers'
6 7 compensation commissioner.

6 8 i. To another governmental agency that is charged with the
6 9 duty of enforcing liens or rights of subrogation or indemnity.

6 10 3. This section does not create a cause of action for a
6 11 violation of its provisions against the workers' compensation
6 12 commissioner or against the state or any governmental
6 13 subdivision of the state.

6 14 EXPLANATION

6 15 This bill relates to workers' compensation settlements,
6 16 filings of information with the workers' compensation
6 17 commissioner, and filing fees.

6 18 Code section 22.7 is amended to provide that confidential
6 19 information, as defined in new Code section 86.45 in the bill,
6 20 which is filed with the workers' compensation commissioner, is
6 21 a confidential public record for purposes of this state's
6 22 public records law.

6 23 Code section 85.35 is amended to modify settlement
6 24 procedures for workers' compensation claims. The bill
6 25 provides that parties may enter into an agreement for
6 26 settlement that establishes the employer's liability, fixes
6 27 the nature and extent of the employee's rights to accrued
6 28 benefits, and establishes the employee's right to statutory
6 29 benefits that accrue in the future; a compromise settlement of
6 30 an employee's claim to benefits that is a full and final
6 31 disposition of the claim; or a settlement that is a
6 32 combination of an agreement for settlement and a compromise
6 33 settlement that establishes the employer's liability for part
6 34 of a claim but makes a full and final disposition of other
6 35 parts of a claim.

7 1 Code section 85.35 is also amended to provide for a
7 2 contingent settlement, which may be made and approved by the
7 3 workers' compensation commissioner, conditioned upon
7 4 subsequent approval by a court or governmental agency or upon

7 5 any other event that is expected to occur within one year from
7 6 the date of the settlement. The bill provides that if the
7 7 subsequent approval or event does not occur, the contingent
7 8 settlement and its approval can be vacated by order of the
7 9 workers' compensation commissioner upon a petition by one of
7 10 the parties or upon agreement by all parties. If such a
7 11 contingent settlement is vacated, the running of any statute
7 12 of limitations provided for in Code section 85.26 is
7 13 considered to be stopped from the date that the contingent
7 14 settlement was initially approved until the date that the
7 15 settlement is vacated and the claim is then restored to the
7 16 status that it held at the time the settlement was initially
7 17 approved. The contingency on a settlement lapses and the
7 18 settlement becomes final and fully enforceable if an action to
7 19 vacate the settlement or to extend the period of time allowed
7 20 for the subsequent approval or event to occur is not initiated
7 21 within one year from the date that the contingent settlement
7 22 was initially approved.

7 23 The bill strikes the requirement that the parties produce
7 24 evidence of a bona fide dispute before a final settlement can
7 25 be approved by the workers' compensation commissioner. The
7 26 bill provides that a settlement cannot be approved unless the
7 27 parties show that substantial evidence exists to support the
7 28 terms of the settlement, waiver of the employee's right to a
7 29 hearing, decision, and statutory benefits is made knowingly by
7 30 the employee, and the settlement is a reasonable and informed
7 31 compromise of the competing interests of the parties. The
7 32 bill also provides that if an employee is represented by legal
7 33 counsel, it is presumed that the required showing has been
7 34 made.

7 35 The bill includes a new Code section 86.15 that codifies
8 1 the authority of the workers' compensation commissioner to
8 2 charge a filing fee, but sets the fee at \$100, for filing a
8 3 petition for arbitration or review=reopening if the petition
8 4 seeks the payment of weekly workers' compensation benefits.
8 5 The bill also requires the commissioner to establish
8 6 procedures, by rule, to defer collection of the filing fee if
8 7 the petitioner is indigent or to avoid collection of multiple
8 8 filing fees where a single claim is being pursued through
8 9 multiple petitions. The bill appropriates the funds generated
8 10 from the filing fees collected pursuant to this section to the
8 11 department of workforce development and requires that they be
8 12 expended for the operation of the division of workers'
8 13 compensation. Currently, the filing fee for such provisions
8 14 is authorized by rule in the amount of \$65.

8 15 The bill amends Code section 86.24, subsection 4, by
8 16 eliminating the requirement that a party filing an appeal must
8 17 file a notice of having ordered a transcript.

8 18 The bill adds new Code section 86.45 that defines
8 19 "confidential information" to mean all information that is
8 20 filed with the workers' compensation commissioner as a result
8 21 of an employee's injury or death that would allow
8 22 identification of the employee or the employee's dependents.
8 23 "Confidential information" includes first reports of injury
8 24 and subsequent reports of claim activity but does not include
8 25 pleadings, motions, decisions, opinions, or applications for
8 26 settlement that are filed with the workers' compensation
8 27 commissioner.

8 28 The bill provides that the workers' compensation
8 29 commissioner shall not disclose such confidential information
8 30 except pursuant to the terms of a written waiver of
8 31 confidentiality executed by the employee or the dependents of
8 32 the employee whose information is filed with the workers'
8 33 compensation commissioner; to another governmental agency or
8 34 to an advisory, rating, or research organization for the
8 35 purpose of compiling statistical data, or conducting
9 1 scientific, medical, or public policy research, where such
9 2 disclosure will not allow identification of the employee or
9 3 the employee's dependents; to the employee or to the agent or
9 4 attorney of the employee whose information is filed with the
9 5 workers' compensation commissioner; to the person or agent of
9 6 the person who submitted the information to the workers'
9 7 compensation commissioner; to an agent, representative,
9 8 attorney, investigator, consultant, or adjuster of an
9 9 employer, or insurance carrier or third-party administrator of
9 10 workers' compensation benefits, who is involved in
9 11 administering a claim for such benefits related to the injury
9 12 or death of the employee whose information is filed with the
9 13 workers' compensation commissioner; to all parties to a
9 14 contested case proceeding before the workers' compensation
9 15 commissioner in which the employee or a dependent of the

9 16 employee, whose information is filed with the workers'
9 17 compensation commissioner, is a party; in compliance with a
9 18 subpoena; to an agent, representative, attorney, investigator,
9 19 consultant, or adjuster of the employee, employer, or
9 20 insurance carrier or third-party administrator of insurance
9 21 benefits, who is involved in administering a claim for
9 22 insurance benefits related to the injury or death of the
9 23 employee whose information is filed with the workers'
9 24 compensation commissioner; or to a governmental agency that is
9 25 charged with a duty to enforce liens or rights of subrogation
9 26 or indemnity.
9 27 The bill also provides that new Code section 86.45 does not
9 28 create a cause of action for a violation of its provisions
9 29 against the workers' compensation commissioner or against the
9 30 state or any governmental subdivision of the state.
9 31 LSB 1209DP 81
9 32 av:rj/sh/8.1